

REMARKS

Claims 23-41 are currently pending. Claims 1-22, 30 and 31 were previously cancelled. Claim 28 is currently amended. Claim 28 is amended and support can be found, for example, in the specification at paragraph [0109] and in claim 34.

Examiner Interview

Applicants thank the Examiner for the interview on September 22, 2008 with Jocelyn Ram. In this interview, the amendment to claim 28 submitted herein was discussed. The Examiner agreed that the “in situ” self-formed separator should distinguish over the prior art of record.

Allowability

Applicants thank the Examiner for the allowance of claims 23-27 and 34 and the allowability of the subject matter of claims 32, 33 and 36-41.

Claim Rejections Under 102

Claims 28 and 29 are rejected under 35 USC 102(b) as being allegedly anticipated by US Patent No. 4,889,777 to Akuto (“Akuto”). Akuto fails to disclose all the limitations of claim 28, and all claims dependent therefrom. Akuto discloses a battery having a positive electrode 12, a negative electrode 13, and an electrolyte 15. Even though Akuto states that the “separator may be arranged as needed” (col 6, lines 56-59), Akuto does not disclose a self-formed separator that is self-formed in situ, as claimed. The Examiner states that “the term “self-formed” does not require that the separator be created in situ or in any particular place, nor implies any specific property at any specific degree. Thus, claim 28 has been amended for clarification. Akuto does not disclose all the limitations of claim 28, and all claims dependent therefrom and Applicants respectfully request withdrawal of this rejection.

Claim Rejections Under 103

Claim 35 is rejected under 35 USC 103(a) as allegedly obvious over Akuto in view of U.S. Patent 5,664,321 to Seilemann et al. (“Seilemann”). Akuto does not disclose all the

limitations of claim 35 and Seilemann does not cure these deficiencies. Seilemann describes a gelled electrolyte, but does not disclose a self-formed separator formed by a reaction of two electrolytes in situ. Thus, for at least the above reasons, Akuto and Seilemann fail to disclose or suggest all the limitations of claim 35. Applicants respectfully request withdrawal of this rejection.

Conclusion

Although no fees are believed to be due, the Office may charge any additional fees required or credit any overpayments, to Deposit Account No. 11-0600.

The Examiner is invited to contact the undersigned at 202-220-4200 to discuss any matter regarding this application.

Respectfully submitted,

KENYON & KENYON LLP

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/Jocelyn D. Ram/

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